

Exhibit 17

ArchiveLead-paint settlement reached

City to provide information but won't be required to reinspect homes cleaned under program

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ALBANY - A 3-year-old federal lawsuit that accused the city of botching a lead-paint removal program for inner-city homes has been settled without the city agreeing to reinspect any homes cleaned during the last decade.

However, in an agreement with the Arbor Hill Concerned Citizens Neighborhood Association, the city will compile and distribute detailed data on work done at hundreds of homes under the federally funded program since 2002, leading association President Aaron Mair to call the lawsuit a partial success. A lawyer for the city defended the lead removal and said no one in a cleaned home is in danger of lead poisoning - which can cause neurological and developmental damage, particularly in children, who sometimes eat the sweet-tasting paint chips. Lead paint for residential use was banned in 1978.

Since 1995, the city has obtained about \$20 million from the U.S. Department of Housing and Urban Development to remove lead paint. About 1,200 homes - most in the Arbor Hill, West Hill, North Albany and South End neighborhoods - have been cleaned by work crews hired by the city.

"This settlement is what we were able to get. It is about information," Mair said Wednesday during a news conference on the steps of City Hall. "We got a couple of drops of water, not a full glass."

As part of the lawsuit, filed in August 2002, the group tested six homes that the city certified as cleaned, and the results showed unsafe lead levels in four. The lawsuit asked that the city be forced to reinspect those homes and others, but U.S. District Judge David N. Hurd ruled such action wasn't permitted under the federal Toxic Substances Control Act.

That was disappointing news to Randy and Danielle Bennett, who have spent more than \$2,600 so far to pave over or cover lead-contaminated soil outside their home at 47 Raymo St. in the South End.

That property was twice certified as clean by the city, once in 1995 before the Bennetts owned it, and again in 2000, after the Bennetts moved in and their son, Zachary, who is now nearly 6 years old, developed lead poisoning.

"We noticed that he was crawling into the bathroom and chewing on the soap bars," said Danielle Bennett. Such behavior, called pica, or the eating of non-food items, can be a warning sign of lead poisoning.

The family pediatrician found Zachary's lead levels were three times greater than deemed safe. Since then, the boy's levels have gradually dropped back to the acceptable range. It's too early to tell whether the boy suffered any permanent damage, Randy Bennett said. "We won't really know until after he's in school."

A subsequent test of the Bennett home by Mair's group in 2002 found there was still lead contamination in the back and side yards and in Zachary's bed room, according to the lawsuit.

"I think the court should have made the city come in and retest the houses that have small children in them," said Bennett, 39. The couple's daughter, Jenna, 3, has no lead poisoning.

Since December 1996, federal law has required home sellers to disclose the presence of lead paint or its hazards as well as removal records. Bennett said he is suing his home's previous owner for not telling him about the 1995 cleanup there.

Mair admitted he was dissatisfied with the settlement. "The shame is in not going back to see how many children the city left in harm's way. This is not a win for the city. It's a tragedy and a disgrace."

The mayor's office referred questions to Frank Amoroso, a lawyer with the Nixon Peabody law firm hired by the city to defend the lawsuit.

"There is no need to reinspect any of the properties. They have all been properly remediated," Amoroso said. "There is no reason for anyone to be concerned."

Mair said the data that the city agreed to release will make it easier for his group and others to measure how the city ran the program.

Under the settlement, the city will create a three-page form that outlines which inspectors and workers were involved with each case, as well as test results and descriptions of remediation efforts. All this information is already kept by the city, but Mair said it is scattered in various documents and difficult to obtain from the city under state Freedom of Information Law. He said his group intends to study the data for evidence of problems, such as workers who were not certified or properly training under HUD guidelines. Mair said his group tested only six homes because of the expense involved.

Amoroso said there was "no instance in which people were not properly certified." He said elevated lead levels found in homes after city crews certified them as cleaned do not prove the work was shoddy.

He said lead can be tracked in from outside, or exposed in the air if repainted surfaces with lead paint beneath are damaged or exposed.

HUD had no comment on the settlement. "We have not seen the settlement or had a chance to review it," said spokesman Adam Glantz in New York City. In the past, HUD officials have defended the program and Albany as a model for other cities to follow.